

## CONFERENCE COMMITTEE SUBSTITUTE

FOR

## HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 394

## AN ACT

To repeal sections 347.700, 347.720, 351.046, 351.182, 351.268, 351.315, 351.320, 351.385, 351.455, 358.150, 358.520 and 359.165, RSMo, and to enact in lieu thereof twelve new sections relating to general and business corporations.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Sections 347.700, 347.720, 351.046, 351.182,  
2           351.268, 351.315, 351.320, 351.385, 351.455, 358.150, 358.520 and  
3           359.165, RSMo, are repealed and twelve new sections enacted in  
4           lieu thereof, to be known as sections 347.700, 347.720, 351.046,  
5           351.182, 351.268, 351.315, 351.320, 351.385, 351.455, 358.150,  
6           358.520, and 359.165, to read as follows:

7           347.700. 1. A merger or consolidation solely between any  
8           two or more domestic corporations or one or more domestic  
9           corporations and one or more foreign corporations shall be  
10          governed by and subject to chapter 351 or 355, RSMo, as is  
11          applicable.

12          2. A merger or consolidation solely between any two or more  
13          domestic general partnerships or one or more domestic general  
14          partnerships and one or more foreign general partnerships shall  
15          be governed by and subject to section 358.520, RSMo.

16          [2.] 3. A merger or consolidation solely between any two

1 or more domestic limited partnerships or one or more domestic  
2 limited partnerships and one or more foreign limited partnerships  
3 shall be governed by and subject to section 359.165, RSMo.

4 [3.] 4. A merger or consolidation solely between any two  
5 or more domestic limited liability companies or one or more  
6 domestic limited liability companies and one or more foreign  
7 limited liability companies shall be governed by sections 347.127  
8 to 347.133.

9 [4.] 5. A business combination involving any resident  
10 domestic corporation and any interested shareholder of such  
11 resident domestic corporation shall be governed by and subject to  
12 section 351.459, RSMo.

13 [5.] 6. Subject to the provisions of this section, any  
14 merger or consolidation between one or more domestic corporations  
15 and any one or more constituent entities at least one of which is  
16 not a corporation, one or more domestic general partnerships and  
17 any one or more constituent entities at least one of which is not  
18 a general partnership, one or more domestic limited partnerships  
19 and any one or more constituent entities at least one of which is  
20 not a limited partnership, one or more domestic limited liability  
21 partnerships and any one or more constituent entities at least  
22 one of which is not a limited liability partnership, one or more  
23 domestic limited liability limited partnerships and any one or  
24 more constituent entities at least one of which is not a limited  
25 liability limited partnership, or one or more domestic limited  
26 liability companies and any one or more constituent entities at  
27 least one of which is not a limited liability company shall be  
28 governed by and subject to the provisions of sections 347.700 to

1 347.735.

2 347.720. 1. The agreement of merger or consolidation  
3 required by section 347.715 shall be authorized and approved in  
4 the following manner:

5 (1) A constituent entity that is a domestic general  
6 partnership shall have the agreement of merger or consolidation  
7 authorized and approved by all of the partners, unless otherwise  
8 provided in the articles or agreement of partnership;

9 (2) A constituent [estate] entity that is a domestic  
10 limited partnership shall have the agreement of merger or  
11 consolidation approved by all general partners and by all of the  
12 limited partners unless otherwise provided in the articles or  
13 agreement of limited partnership;

14 (3) A constituent [estate] entity that is a domestic  
15 corporation shall have the agreement of merger or consolidation  
16 approved in the manner applicable to a merger of two or more  
17 domestic corporations as provided in chapter 351 or 355, RSMo, as  
18 is applicable;

19 (4) A constituent entity that is a domestic limited  
20 liability company shall have the agreement of merger or  
21 consolidation approved in the manner provided in section 347.079;  
22 and

23 (5) Each constituent entity formed under the laws of a  
24 jurisdiction other than this state shall have the agreement of  
25 merger or consolidation approved in accordance with the laws of  
26 such other jurisdiction.

27 2. The fact that the agreement of merger or consolidation  
28 has been authorized and approved in accordance with this section

1 shall be certified on the agreement of merger or consolidation on  
2 behalf of each constituent entity:

3 (1) In the case of any domestic general or limited  
4 partnership, by any general partner;

5 (2) In the case of any domestic corporation, by its  
6 president or a vice president, and by its secretary or an  
7 assistant secretary;

8 (3) In the case of any domestic limited liability company,  
9 by any authorized person as defined in section 347.015; and

10 (4) In the case of any constituent entity formed under the  
11 laws of any jurisdiction other than this state, in accordance  
12 with the laws of such other jurisdiction.

13 3. After the agreement of merger or consolidation is  
14 authorized and approved, unless the agreement of merger or  
15 consolidation provides otherwise, and at any time before the  
16 agreement of merger or consolidation or certificate of merger or  
17 consolidation is effective as provided for in section 347.725,  
18 the agreement of merger or consolidation may be abandoned,  
19 subject to any contractual rights, in accordance with the  
20 procedure set forth in the agreement of merger or consolidation  
21 or, if none is set forth, with the approval of those persons or  
22 individuals entitled to approve the merger or consolidation as  
23 provided in subsection 1 of this section.

24 351.046. 1. A document shall satisfy the requirements of  
25 this section, and of any other section that adds to or varies  
26 from these requirements, to be entitled to filing by the  
27 secretary of state.

28 2. This chapter shall require or permit filing the document

1 in the office of the secretary of state.

2 3. The document shall contain the information required by  
3 this chapter. It may contain other information as well.

4 4. The document shall be typewritten or printed.

5 5. The document shall be in the English language.

6 A corporate name need not be in English if written in English  
7 letters or Arabic or Roman numerals, and the certificate of  
8 existence required of foreign corporations need not be in English  
9 if accompanied by a reasonably authenticated English translation.

10 6. The document shall be executed:

11 (1) By the chairman of the board of directors of a domestic  
12 or foreign corporation, by its president, or by another of its  
13 officers;

14 (2) If directors have not been selected or the corporation  
15 has not been formed, by the incorporator(s); or

16 (3) If the corporation is in the hands of a receiver,  
17 trustee, or other court-appointed fiduciary, by that fiduciary.

18 7. The person executing the document shall sign it and  
19 state beneath or opposite his signature his name and the capacity  
20 in which he signs. The document may contain the corporate seal,  
21 an attestation by the secretary or an assistant secretary, an  
22 acknowledgment, verification or proof.

23 8. If the secretary of state has prescribed a mandatory  
24 form for the document under the provisions of section 351.047,  
25 the document shall be in or on the prescribed form.

26 9. The document shall be delivered to the office of the  
27 secretary of state for filing and must be accompanied by one  
28 exact or conformed copy, except as provided in sections 351.376

1 and 351.592, the correct filing fee, and any franchise tax,  
2 license fee, or penalty required by this chapter or other law.

3 10. Any signature on any document authorized to be filed by  
4 or with the secretary of state pursuant to this chapter may be a  
5 facsimile, a conformed signature or an electronically transmitted  
6 signature.

7 351.182. 1. Subject to any provisions in the articles of  
8 incorporation, every corporation may create and issue, whether or  
9 not in connection with the issue and sale of any shares of stock  
10 or other securities of the corporation, rights or options  
11 entitling the holders thereof to purchase from the corporation  
12 any shares of its capital stock of any class or classes, such  
13 rights or options to be evidenced by or in such instrument or  
14 instruments as is approved by the board of directors. If at the  
15 time the corporation issues rights or options, there is  
16 insufficient authorized and unissued shares to provide the shares  
17 needed if and when the rights or options are exercised, the  
18 granting of the rights or options shall not be invalid solely by  
19 reason of the lack of sufficient authorized but unissued shares.

20 2. The terms upon which any such shares may be purchased  
21 from the corporation upon the exercise of any such right or  
22 option, shall be as stated in the articles of incorporation, or  
23 in a resolution adopted by the board of directors providing for  
24 the creation and issue of such rights or options, and, in every  
25 case, shall be set forth or incorporated by reference in the  
26 instrument or instruments evidencing such rights or options.  
27 Such terms may include, but not be limited to:

28 (1) The duration of such rights or options, which may be

1     limited or unlimited;

2             (2)   The price or prices at which any such shares may be  
3     purchased from the corporation upon the exercise of any such  
4     right or option;

5             (3)   The holders by whom such rights or options may be  
6     exercised;

7             (4)   The conditions to or which may preclude or limit the  
8     exercise, transfer or receipt of such rights or options, or which  
9     may invalidate or void such rights or options, including without  
10    limitation conditions based upon a specified number or percentage  
11    of outstanding shares, rights, options, convertible securities,  
12    or obligations of the corporation as to which any person or  
13    persons or their transferees own or offer to acquire; and

14            (5)   The conditions upon which such rights or options may be  
15    redeemed.

16   Such terms may be made dependent upon facts ascertainable outside  
17   the documents evidencing the rights, or the resolution providing  
18   for the issue of the rights or options adopted by the board of  
19   directors, if the manner in which the facts shall operate upon  
20   the exercise of the rights or options is clearly and expressly  
21   set forth in the document evidencing the rights or options, or in  
22   the resolution. In the absence of actual fraud in the  
23   transaction, the judgment of the directors as to the  
24   consideration for the issuance of such rights or options and the  
25   sufficiency thereof and the terms of such rights or options shall  
26   be conclusive. In case the shares of stock of the corporation to  
27   be issued upon the exercise of such rights or options shall be  
28   shares having a par value, the price or prices so to be received

1 therefor shall not be less than the par value thereof. In case  
2 the shares of stock so to be issued shall be shares of stock  
3 without par value, the consideration therefor shall be determined  
4 in the manner provided in section 351.185. Nothing contained in  
5 subsection 1 of section 351.180 shall be deemed to limit the  
6 authority of the board of directors to determine, in its sole  
7 discretion, the terms of the rights or options issuable pursuant  
8 to this section.

9 3. The board of directors may, by a resolution adopted by  
10 the board, authorize one or more officers of the corporation to  
11 do one or both of the following:

12 (1) Designate officers and employees of the corporation or  
13 of any of its subsidiaries to be recipients of such rights or  
14 options created by the corporation;

15 (2) Determine the number of such rights or options to be  
16 received by such officers and employees; provided, however, that  
17 the resolution so authorizing such officer or officers shall  
18 specify the total number of rights or options such officer or  
19 officers may so award. The board of directors may not authorize  
20 an officer to designate himself or herself as a recipient of any  
21 such rights or options.

22 351.268. 1. In addition to the provisions of sections  
23 351.265 and 351.267 regarding the adjournment of shareholders  
24 meetings at which a quorum is not present, unless the bylaws  
25 provide to the contrary, a meeting may be otherwise successively  
26 adjourned to a specified date not longer than ninety days after  
27 such adjournment or to another place. Notice need not be given  
28 of the adjourned meeting if the time and place thereof are



1 announced at the meeting at which the adjournment is taken. At  
2 the adjourned meeting the corporation may transact any business  
3 which might have been transacted at the original meeting. If the  
4 adjournment is for more than ninety days, or if after the  
5 adjournment a new record date is fixed for the adjourned meeting,  
6 a notice of the date and place of the adjourned meeting shall be  
7 given to each shareholder of record entitled to vote at the  
8 meeting.

9 2. A shareholder's meeting may be successively postponed by  
10 resolution of the board of directors, unless otherwise provided  
11 in the bylaws, to a specified date up to a date ninety days after  
12 such postponement or to another place, provided notice of the  
13 date and place of the postponed meeting, which may be by public  
14 notice, is given to each shareholder of record entitled to vote  
15 at the meeting [prior to the date previously scheduled for such  
16 meeting].

17 3. For purposes of this chapter, "adjournment" means a  
18 delay in the date, which may also be combined with a change in  
19 the place, of a meeting after the meeting has been convened;  
20 "postponement" means a delay in the date, which may be combined  
21 with a change in the place, of the meeting before it has been  
22 convened, but after the time and place thereof have been set  
23 forth in a notice delivered or given to shareholders; and public  
24 notice shall be deemed to have been given if a public  
25 announcement is made by press release reported by a national news  
26 service or in a publicly available document filed with the United  
27 States Securities and Exchange Commission.

28 351.315. 1. A corporation shall have three or more

1 directors, except that a corporation may have one or two  
2 directors provided the number of directors to constitute the  
3 board of directors is stated in the articles of incorporation.  
4 Any corporation may elect its directors for one or more years,  
5 not to exceed three years, the time of service and mode of  
6 classification to be provided for by the articles of  
7 incorporation or the bylaws of the corporation; but, there shall  
8 be an annual election for such number or proportion of directors  
9 as may be found upon dividing the entire number of directors by  
10 the number of years composing a term. At the first annual  
11 meeting of shareholders and at each annual meeting thereafter the  
12 shareholders entitled to vote shall elect directors to hold  
13 office until the next succeeding annual meeting, except as herein  
14 provided. Each director shall hold office for the term for which  
15 he is elected or until his successor shall have been elected and  
16 qualified.

17       2. The articles of incorporation may confer upon holders of  
18 any class or series of stock the right to elect one or more  
19 directors who shall serve for such term and shall have such  
20 voting powers as shall be stated in the articles of  
21 incorporation. The terms of office and voting powers of the  
22 directors elected in the manner so provided in the articles of  
23 incorporation may be greater than or less than those of any other  
24 director or class of directors. If the articles of  
25 incorporation provide that directors elected by the holders of a  
26 class or series of stock shall have more or less than one vote  
27 per director on any matter, every reference in this chapter to a  
28 majority or other proportion of directors shall refer to a

1 majority or other proportion of the votes such directors are  
2 entitled to cast.

3       3. At a meeting called expressly for that purpose,  
4 directors may be removed in the manner provided in this section.  
5 Such meeting shall be held at the registered office or principal  
6 business office of the corporation in this state or in the city  
7 or county in this state in which the principal business office of  
8 the corporation is located. Unless the articles of incorporation  
9 or the bylaws provide otherwise, one or more directors or the  
10 entire board of directors may be removed, with or without cause,  
11 by a vote of the holders of a majority of the shares then  
12 entitled to vote at an election of directors. If the articles of  
13 incorporation or bylaws provide for cumulative voting in the  
14 election of directors, if less than the entire board is to be  
15 removed, no one of the directors may be removed if the votes cast  
16 against [his] such director's removal would be sufficient to  
17 elect [him] such director if then cumulatively voted at an  
18 election of the entire board of directors, or, if there be  
19 classes of directors, at an election of the class of directors of  
20 which [he] such director is a part. Whenever the holders of the  
21 shares of any class are entitled to elect one or more directors  
22 by the provisions of the articles of incorporation, the  
23 provisions of this section shall apply, in respect of the removal  
24 of a director or directors so elected, to the vote of the holders  
25 of the outstanding shares of that class and not to the vote of  
26 the outstanding shares as a whole.

27       [3.] 4. The corporation shall give written notice to the  
28 secretary of state of the number of directors of the corporation

1 as fixed by any method. The notice shall be given within thirty  
2 days of the date when the number of directors is fixed, and  
3 similar notice shall be given whenever the number of directors is  
4 changed.

5 351.320. 1. Unless otherwise provided in the articles of  
6 incorporation or bylaws of the corporation, vacancies on the  
7 board and newly created directorships resulting from any increase  
8 in the number of directors to constitute the board of directors  
9 may be filled by a majority of the directors then in office,  
10 although less than a quorum, or by a sole remaining director,  
11 until the next election of directors by the shareholders of the  
12 corporation; except that, if shareholders elect directors by  
13 class pursuant to section 351.315, a director elected by the  
14 board pursuant to this section to fill a vacancy or to a newly  
15 created directorship need not be presented for election by  
16 shareholders until the class to which the director has been so  
17 elected by the board is presented for election by the  
18 shareholders.

19 2. Whenever the holders of any class or classes of stock or  
20 series thereof are entitled to elect one or more directors by the  
21 articles of incorporation, vacancies and newly created  
22 directorships with respect to such class or classes or series may  
23 be filled by a majority of the directors elected by such class or  
24 classes or series thereof then in office.

25 351.385. Each corporation shall have power:

26 (1) To have succession by its corporate name for the period  
27 limited in its articles of incorporation or perpetually where  
28 there is no such limitations;

1           (2) To sue and be sued, complain and defend in any court of  
2 law or equity;

3           (3) To have a corporate seal which may be altered at  
4 pleasure and to use the same by causing it or a facsimile thereof  
5 to be impressed or affixed or in any manner reproduced;

6           (4) To purchase, take, receive, lease, or otherwise  
7 acquire, own, hold, improve, use and otherwise deal in, sell,  
8 convey, mortgage, pledge, lease, exchange, transfer and otherwise  
9 dispose of all or any part of its real or personal property, or  
10 any interest therein, or other assets, wherever situated; and to  
11 hold for any period of time, real estate acquired in payment of a  
12 debt, by foreclosure or otherwise, or real estate exchanged  
13 therefor;

14           (5) To be a general or limited partner;

15           (6) To purchase, take, receive, subscribe for, or otherwise  
16 acquire, own, hold, vote, use, employ, sell, mortgage, loan,  
17 pledge, or otherwise dispose of, and otherwise use and deal in  
18 and with, shares or other interests in, or obligations of, other  
19 domestic or foreign corporations, associations, partnerships, or  
20 individuals, or direct or indirect obligations of the United  
21 States or of any other government, state, territory, governmental  
22 district or municipality or of any instrumentality thereof;

23           (7) To make contracts and guarantees, including but not  
24 limited to guarantees of the capital stock, bonds, other  
25 securities, evidences of indebtedness and other debts and  
26 obligations issued by any other corporation of this or any other  
27 state, or issued by any state or [other] any political  
28 subdivision thereof; to incur liabilities; to borrow money at

1 such rates of interest as the corporation may determine without  
2 regard to the restrictions of any usury law of this state; to  
3 issue its notes, bonds, and other obligations; to issue notes or  
4 bonds, secured or unsecured, which by their terms are convertible  
5 into shares of stock of any class, upon such terms and conditions  
6 and at such rates or prices as may be provided in such notes or  
7 bonds and the indenture or mortgage under which they are issued;  
8 and to secure any of its obligations by mortgage, pledge, or deed  
9 of trust of all or any of its property, franchises, and income;

10 (8) To invest its surplus funds from time to time and to  
11 lend money and to take and hold real and personal property as  
12 security for the payment of funds so invested or loaned;

13 (9) To conduct its business, carry on its operations, and  
14 have offices within and without this state, and to exercise in  
15 any other state, territory, district, or possession of the United  
16 States, or in any foreign country, the powers granted by this  
17 chapter;

18 (10) To elect or appoint directors, officers and agents of  
19 the corporation, define their duties and fix their compensation,  
20 and to indemnify directors, officers and employees to the extent  
21 and in the manner permitted by law;

22 (11) To make and alter bylaws, not inconsistent with its  
23 articles of incorporation or with the laws of this state, for the  
24 administration and regulation of the affairs of the corporation,  
25 and to adopt emergency bylaws and exercise emergency powers as  
26 permitted by law;

27 (12) To transact any lawful business in aid of the United  
28 States in the prosecution of war, to make donations to

1 associations and organizations aiding in war activities, and to  
2 lend money to the state or federal government for war purposes;

3 (13) To cease its corporate activities and surrender its  
4 corporate franchise;

5 (14) To have and exercise all powers necessary or  
6 convenient to effect any or all of the purposes for which the  
7 corporation is formed;

8 (15) To make contributions to any corporation organized for  
9 civic, charitable, benevolent, scientific or educational  
10 purposes, or to any incorporated or unincorporated association,  
11 community chest or community fund, not operated or used for  
12 profit to its members but operated for the purposes of raising  
13 funds for and of distributing funds to other civic, charitable,  
14 benevolent, scientific or educational organizations or agencies;

15 (16) To renounce, in its articles of incorporation or by  
16 action of its board of directors, any interest or expectancy of  
17 the corporation in, or in being offered an opportunity to  
18 participate in, specified business opportunities or specified  
19 classes or categories of business opportunities that are  
20 presented to the corporation, or one or more of its officers,  
21 directors, employees, agents, or stockholders.

22 351.455. 1. If a shareholder of a corporation which is a  
23 party to a merger or consolidation [shall file with such  
24 corporation, prior to or] and, in the case of a shareholder  
25 owning voting stock as of the record date, at the meeting of  
26 shareholders at which the plan of merger or consolidation is  
27 submitted to a vote[, ] shall file with such corporation prior to  
28 or at such meeting a written objection to such plan of merger or

1 consolidation, and shall not vote in favor thereof, and such  
2 shareholder, within twenty days after the merger or consolidation  
3 is effected, shall make written demand on the surviving or new  
4 corporation for payment of the fair value of his or her shares as  
5 of the day prior to the date on which the vote was taken  
6 approving the merger or consolidation, the surviving or new  
7 corporation shall pay to such shareholder, upon surrender of his  
8 or her certificate or certificates representing said shares, the  
9 fair value thereof. Such demand shall state the number and class  
10 of the shares owned by such dissenting shareholder. Any  
11 shareholder failing to make demand within the twenty day period  
12 shall be conclusively presumed to have consented to the merger or  
13 consolidation and shall be bound by the terms thereof.

14 2. If within thirty days after the date on which such  
15 merger or consolidation was effected the value of such shares is  
16 agreed upon between the dissenting shareholder and the surviving  
17 or new corporation, payment therefor shall be made within ninety  
18 days after the date on which such merger or consolidation was  
19 effected, upon the surrender of his or her certificate or  
20 certificates representing said shares. Upon payment of the  
21 agreed value the dissenting shareholder shall cease to have any  
22 interest in such shares or in the corporation.

23 3. If within such period of thirty days the shareholder and  
24 the surviving or new corporation do not so agree, then the  
25 dissenting shareholder may, within sixty days after the  
26 expiration of the thirty day period, file a petition in any court  
27 of competent jurisdiction within the county in which the  
28 registered office of the surviving or new corporation is



1 situated, asking for a finding and determination of the fair  
2 value of such shares, and shall be entitled to judgment against  
3 the surviving or new corporation for the amount of such fair  
4 value as of the day prior to the date on which such vote was  
5 taken approving such merger or consolidation, together with  
6 interest thereon to the date of such judgment. The judgment  
7 shall be payable only upon and simultaneously with the surrender  
8 to the surviving or new corporation of the certificate or  
9 certificates representing said shares. Upon the payment of the  
10 judgment, the dissenting shareholder shall cease to have any  
11 interest in such shares, or in the surviving or new corporation.  
12 Such shares may be held and disposed of by the surviving or new  
13 corporation as it may see fit. Unless the dissenting shareholder  
14 shall file such petition within the time herein limited, such  
15 shareholder and all persons claiming under [him] such shareholder  
16 shall be conclusively presumed to have approved and ratified the  
17 merger or consolidation, and shall be bound by the terms thereof.

18 4. The right of a dissenting shareholder to be paid the  
19 fair value of [his] such shareholder's shares as herein provided  
20 shall cease if and when the corporation shall abandon the merger  
21 or consolidation.

22 5. When the remedy provided for in this section is  
23 available with respect to a transaction, such remedy shall be the  
24 exclusive remedy of the shareholder as to that transaction,  
25 except in the case of fraud or lack of authorization for the  
26 transaction.

27 358.150. 1. Except as provided in subsection 2 of this  
28 section, all partners are liable jointly and severally for

1 everything chargeable to the partnership pursuant to sections  
2 358.130 and 358.140, and for all other debts and obligations of  
3 the partnership. Any partner may enter into a separate  
4 obligation to perform a partnership contract.

5 2. Subject to subsection 3 of this section, no partner in a  
6 registered limited liability partnership shall be liable or  
7 accountable, directly or indirectly, including by way of  
8 indemnification, contribution, assessment or otherwise, for any  
9 debts, obligations and liabilities of, or chargeable to, the  
10 partnership or each other, whether in tort, contract or  
11 otherwise, which are incurred, created or assumed by such  
12 partnership while the partnership is a registered limited  
13 liability partnership.

14 3. Subsection 2 of this section shall not affect the  
15 liability of a partner in a registered limited liability  
16 partnership for the partner's own negligence, wrongful acts,  
17 omissions, misconduct or malpractice [or that of any person under  
18 the partner's direct supervision and control] or the partner's  
19 liability for any taxes or fees administered by the department of  
20 revenue pursuant to chapter 143, 144 or 301, RSMo, and any  
21 liabilities owed as determined by the division of employment  
22 security, pursuant to chapter 288, RSMo, and any local taxes  
23 provided for in section 32.087, RSMo.

24 4. A partner is not a proper party to a proceeding by or  
25 against a registered limited liability partnership, the object of  
26 which is to recover damages or enforce obligations arising out of  
27 acts, omissions, malpractice or misconduct of the type described  
28 in subsection 2 of this section, unless the partner is personally

1     liable pursuant to subsection 1 or 3 of this section.

2             5. A registered limited liability partnership may sue and  
3     be sued in its own name.

4             6. Venue of claims against registered limited liability  
5     partnerships shall be controlled pursuant to section 508.010,  
6     RSMo, and, for purposes of venue, a registered limited liability  
7     partnership shall be deemed to be a citizen and resident of the  
8     county in which it has any office or agent for the transaction of  
9     its usual and customary business activities or in which its  
10    registered office or registered agent is located.

11            7. Service of process upon a registered limited liability  
12    partnership may be had by delivering a copy of the summons and  
13    petition to the partnership's registered agent, a partner,  
14    managing or general agent or by leaving the copies at any  
15    business office of the registered limited liability partnership  
16    with the person having charge thereof.

17            358.520. 1. Pursuant to an agreement of merger or  
18    consolidation, a domestic general partnership may merge or  
19    consolidate with or into one or more general partnerships formed  
20    under the laws of this state or any other jurisdiction, with such  
21    general partnership as the agreement shall provide being the  
22    surviving or resulting general partnership. A domestic general  
23    partnership may merge or consolidate with [or into] one or more  
24    domestic or foreign limited [general] partnerships [or domestic  
25    or foreign limited partnerships, limited liability companies,  
26    trusts, business trusts, corporations, real estate investment  
27    trusts and other associations or business entities], limited  
28    liability companies, trusts, business trusts, corporations, real

1 estate investment trusts and other associations or business  
2 entities at least one of which is not a general partnership, as  
3 provided in sections 347.700 to 347.735, RSMo.

4 2. The agreement of merger or consolidation shall be  
5 approved by the number or percentage of partners specified in the  
6 partnership agreement. If the partnership agreement fails to  
7 specify the required partner approval for merger or consolidation  
8 of the general partnership, then the agreement of merger or  
9 consolidation shall be approved by that number or percentage of  
10 partners specified by the partnership agreement to approve an  
11 amendment to the partnership agreement. However, if the merger  
12 effects a change for which the partnership agreement requires a  
13 greater number or percentage of partners than that required to  
14 amend the partnership agreement, then the merger or consolidation  
15 shall be approved by that greater number or percentage. If the  
16 partnership agreement contains no provision specifying the vote  
17 required to amend the partnership agreement, then the agreement  
18 of merger must be approved by all the partners.

19 3. In the case of a merger or consolidation of one or more  
20 domestic partnerships into a surviving partnership, the surviving  
21 partnership shall file articles of merger or consolidation with  
22 the secretary of state setting forth:

23 (1) The name of each party to the merger or consolidation;

24 (2) The effective date of the merger or consolidation which  
25 shall be the date the articles of merger or consolidation are  
26 filed with the secretary of state or on a later date set forth in  
27 the articles of merger or consolidation not to exceed ninety days  
28 after the filing date;

1       (3) The name of the surviving partnership in a merger or  
2 the new partnership in a consolidation and the state of its  
3 formation;

4       (4) A statement that the merger or consolidation was  
5 authorized and approved by the partners of each party to the  
6 merger or consolidation in accordance with the laws of the  
7 jurisdiction where it was organized;

8       (5) If applicable, the address of the registered office and  
9 the name of the registered agent at such office for the surviving  
10 or new partnership;

11       (6) A statement that the executed agreement of merger or  
12 consolidation is on file at the principal place of business of  
13 the surviving or new partnership, stating the address of such  
14 place of business; and

15       (7) A statement that a copy of the agreement of merger or  
16 consolidation will be furnished by the surviving or new  
17 partnership, on request and without cost, to any partner of any  
18 entity that is a party to the merger or consolidation.

19       4. The certificate of merger or consolidation shall be  
20 executed by at least one general partner of each domestic  
21 partnership and one authorized agent, or its equivalent, for the  
22 other party to the merger or consolidation who is duly authorized  
23 to execute such notice.

24       5. If, following a merger or consolidation of one or more  
25 domestic partnerships and one or more partnerships formed under  
26 the laws of any state, the surviving or resulting partnership is  
27 not a domestic partnership, there shall be attached to the  
28 articles of merger or consolidation filed pursuant to subsection

1 3 of this section a certificate executed by the surviving or  
2 resulting partnership, stating that such surviving or resulting  
3 partnership may be served with process in this state in any  
4 action, suit or proceeding for the enforcement of any obligation  
5 of such domestic partnership, irrevocably appointing the  
6 secretary of state as such surviving or resulting partnership's  
7 agent to accept service of process in any such action, suit or  
8 proceeding and specifying the address to which a copy of such  
9 process shall be mailed to such surviving or resulting  
10 partnership to the secretary of state.

11 6. When the articles of merger or consolidation required by  
12 subsection 3 of this section shall have become effective, for all  
13 purposes of the laws of this state, all the rights, privileges,  
14 franchises and powers of each of the partnerships that have  
15 merged or consolidated, and all property, real, personal, and  
16 mixed, and all debts due to any of such partnerships, as well as  
17 all other things and causes of action belonging to each of such  
18 partnerships shall be vested in the surviving or resulting  
19 partnership, and shall thereafter be the property of the  
20 surviving or resulting partnership as they were of each of the  
21 partnerships that have merged or consolidated, and the title to  
22 any real property vested by deed or otherwise, under the laws of  
23 this state, in any such partnerships, shall not revert or be in  
24 any way impaired by reason of this section; but all rights of  
25 creditors and all liens upon any property of any such  
26 partnerships shall be preserved unimpaired, and all debts,  
27 liabilities and duties of each of the partnerships that have  
28 merged or consolidated shall thenceforth attach to the surviving

1 or resulting partnership, and may be enforced against such  
2 surviving or resulting partnership to the same extent as if such  
3 debts, liabilities, and duties had been incurred or contracted by  
4 such surviving or resulting partnership.

5 359.165. 1. Pursuant to an agreement of merger or  
6 consolidation, a domestic limited partnership may merge or  
7 consolidate with or into one or more limited partnerships formed  
8 under the laws of this state or any other jurisdiction, with such  
9 limited partnership as the agreement shall provide being the  
10 surviving or resulting limited partnership. A domestic limited  
11 partnership may merge or consolidate with one or more domestic or  
12 foreign general partnerships, limited liability companies,  
13 trusts, business trusts, corporations, real estate investment  
14 trusts and other associations or business entities at least one  
15 of which is not a limited partnership, as provided in sections  
16 347.700 to 347.735, RSMo.

17 2. The agreement of merger or consolidation shall be  
18 approved by the number or percentage of general and limited  
19 partners specified in the partnership agreement. If the  
20 partnership agreement fails to specify the required partner  
21 approval for merger or consolidation of the limited partnership,  
22 then the agreement of merger or consolidation shall be approved  
23 by that number or percentage of general and limited partners  
24 specified by the partnership agreement to approve an amendment to  
25 the partnership agreement. However, if the merger effects a  
26 change for which the partnership agreement requires a greater  
27 number or percentage of general and limited partners than that  
28 required to amend the partnership agreement, then the merger or

1 consolidation shall be approved by that greater number or  
2 percentage. If the partnership agreement contains no provision  
3 specifying the vote required to amend the partnership agreement,  
4 then the agreement of merger must be approved by all the general  
5 and limited partners.

6 [2.] 3. In the case of a merger or consolidation of one or  
7 more domestic limited partnerships into a surviving limited  
8 partnership, the surviving limited partnership shall file  
9 articles of merger or consolidation with the secretary of state  
10 setting forth:

11 (1) The name of each party to the merger or consolidation;

12 (2) The effective date of the merger or consolidation which  
13 shall be the date the articles of merger or consolidation are  
14 filed with the secretary or on a later date set forth in the  
15 articles of merger or consolidation not to exceed ninety days  
16 after the filing date;

17 (3) The name of the surviving limited partnership in a  
18 merger or the new limited partnership in a consolidation and the  
19 state of its formation;

20 (4) A statement that the merger or consolidation was  
21 authorized and approved by the partners of each party to the  
22 merger or consolidation in accordance with the laws of the  
23 jurisdiction where it was organized;

24 (5) If applicable, the address of the registered office and  
25 the name of the registered agent at such office for the surviving  
26 or new limited partnership;

27 (6) In the case of a merger in which a domestic limited  
28 partnership is the surviving entity, such amendments or changes



1 to the certificate of limited partnership of the surviving  
2 limited partnership as are desired to be effected by the merger,  
3 or, if no such amendments or changes are desired, a statement  
4 that the certificate of limited partnership of the surviving  
5 limited partnership shall not be amended or changed as a result  
6 of the merger;

7 (7) In the case of a consolidation in which a domestic  
8 limited partnership is the continuing limited partnership, the  
9 certificate of limited partnership of the new domestic limited  
10 partnership shall be set forth in an attachment to the  
11 certificate of consolidation;

12 (8) A statement that the executed agreement of merger or  
13 consolidation is on file at the principal place of business of  
14 the surviving or new limited partnership, stating the address of  
15 such place of business; and

16 (9) A statement that a copy of the agreement of merger or  
17 consolidation will be furnished by the surviving or new limited  
18 partnership, on request and without cost, to any partner of any  
19 entity that is a party to the merger or consolidation.

20 [3.] 4. The certificate of merger or consolidation shall  
21 be executed by at least one general partner of each domestic  
22 limited partnership and one authorized agent, or its equivalent,  
23 for the other party to the merger or consolidation who is duly  
24 authorized to execute such notice.

25 [4.] 5. In the case of a merger of one or more domestic  
26 limited partnerships into a surviving limited partnership, the  
27 certificate of limited partnership of the surviving domestic  
28 limited partnership shall be amended to the extent provided in

1 the articles of merger and the certificates of limited  
2 partnership of each other domestic limited partnership shall be  
3 deemed canceled by the filing of the articles of merger with the  
4 secretary of state.

5       [5.] 6. If, following a merger or consolidation of one or  
6 more domestic limited partnerships and one or more limited  
7 partnerships formed under the laws of any state, the surviving or  
8 resulting limited partnership is not a domestic limited  
9 partnership, there shall be attached to the articles of merger or  
10 consolidation filed pursuant to subsection [2] 3 of this section  
11 a certificate executed by the surviving or resulting limited  
12 partnership, stating that such surviving or resulting limited  
13 partnership may be served with process in this state in any  
14 action, suit or proceeding for the enforcement of any obligation  
15 of such domestic limited partnership, irrevocably appointing the  
16 secretary of state as such surviving or resulting limited  
17 partnership's agent to accept service of process in any such  
18 action, suit or proceeding and specifying the address to which a  
19 copy of such process shall be mailed to such surviving or  
20 resulting limited partnership to the secretary of state.

21       [6.] 7. When the articles of merger or consolidation  
22 required by subsection [2] 3 of this section shall have become  
23 effective, for all purposes of the laws of this state, all of the  
24 rights, privileges, franchises and powers of each of the limited  
25 partnerships that have merged or consolidated, and all property,  
26 real, personal and mixed, and all debts due to any of such  
27 limited partnerships, as well as all other things and causes of  
28 action belonging to each of such limited partnerships shall be

1 vested in the surviving or resulting limited partnership, and  
2 shall thereafter be the property of the surviving or resulting  
3 limited partnership as they were of each of the limited  
4 partnerships that have merged or consolidated, and the title to  
5 any real property vested by deed or otherwise, under the laws of  
6 this state, in any such limited partnerships, shall not revert or  
7 be in any way impaired by reason of this section; but all rights  
8 of creditors and all liens upon any property of any of such  
9 limited partnerships shall be preserved unimpaired, and all  
10 debts, liabilities and duties of each of the limited partnerships  
11 that have merged or consolidated shall thenceforth attach to the  
12 surviving or resulting limited partnership, and may be enforced  
13 against such surviving or resulting limited partnership to the  
14 same extent as if such debts, liabilities and duties had been  
15 incurred or contracted by such surviving or resulting limited  
16 partnership.

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